

**DOCKET NO. D-2006-026 CP-3**

**DELAWARE RIVER BASIN COMMISSION**

**Discharge to a Tributary of Special Protection Waters**

**Pocono Manor Investors PTI, LP  
Wastewater Treatment Plant Service Area Modification  
Pocono Township, Monroe County, Pennsylvania**

**PROCEEDINGS**

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Pennoni Associates Inc. on behalf of Pocono Manor Investors PTI, LP (Pocono Manor or docket holder) on April 8, 2013 (Application), for review of a wastewater treatment plant (WWTP) service area modification. The Pennsylvania Department of Environmental Protection (PADEP) issued National Pollutant Discharge Elimination System (NPDES) Permit No. PA0029149 for the project discharge on December 14, 2011.

The Application was reviewed for inclusion/continuation of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact (Compact)*. The Monroe County Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on May 7, 2013.

**A. DESCRIPTION**

- 1. Purpose.** The purpose of this docket is to approve a modification of the service area for the existing 0.14 million gallon per day (mgd) Pocono Manor WWTP. There are no modifications to the existing WWTP treatment facilities proposed.
- 2. Location.** The project WWTP is located off Lake Road at the Pocono Manor Resort Area in Pocono Township, Monroe County, Pennsylvania. The WWTP will continue to discharge to Swiftwater Creek, which is a tributary to Paradise Creek, itself a tributary to the Brodhead Creek, at River Mile 213.0 – 11.4 – 4.4 – 5.3 (Delaware River – Brodhead Creek – Paradise Creek – Swiftwater Creek), in the drainage area to the Middle Delaware Special Protection Waters (SPW) area.

The project outfall is located in Brodhead Creek Watershed as follows:

<b>OUTFALL NO.</b>	<b>LATITUDE (N)</b>	<b>LONGITUDE (W)</b>
002	41° 05' 58"	75° 21' 10"

**3. Area Served.** The docket holder's WWTP currently receives domestic wastewater flows from the existing Pocono Manor Village and the Pocono Manor Inn, which are part of the Pocono Manor Resort area, which is located in Pocono and Tobyhanna Townships and Mount Pocono Borough, Monroe County, Pennsylvania.

This docket approves a service area modification to the existing WWTP to remove a portion of the docket holder's DRBC-approved service area. The area to be removed is located in Tobyhanna Township, Monroe County, Pennsylvania, and will be serviced by the existing Brodhead Creek Regional Authority (BCRA) Wastewater Treatment Plant (WWTP) located in the Borough of Stroudsburg. The area to be removed consists of two (2) proposed commercial developments: 1) a proposed three-phased waterpark, hotel, and convention center project referred to as the Kalahari Resorts project; and 2) a commercial development by Pocono Manor Investors, LP. The modified service area is depicted on the plan entitled "Pocono Manor Sewer Service Area" by Pennoni Associates Inc., dated 3/29/2013, submitted with the Application.

The service area to be removed will connect to the existing Pocono Township sewer conveyance system, which conveys wastewater to the BCRA WWTP, via existing and proposed infrastructure. BCRA will also provide public water supply to the service area to be removed.

For the purpose of defining the Area Served, Section B (Type of Discharge) and D (Service Area) of the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

**4. Physical features.**

**a. Design criteria.** The docket holder's existing 0.14 mgd WWTP will continue to utilize a stepped gravity-fed trickling filter treatment process with chlorination and post aeration.

**b. Facilities.** The existing WWTP facilities consist of a comminutor and two (2) 70,000 gallon Imhoff holding tanks, after which sewage flows to a dosing siphon tank. Once the siphon tank is filled, sewage enters a trickling filter filled with rock media. The elevation difference from the siphon to the trickling filters causes enough pressure to spray wastewater evenly over the rock media and evenly distribute sewage over the trickling filter.

After the trickling filter, sewage is collected in a channel for chlorination and held in a small basin to ensure sufficient chlorine contact time for disinfection before discharge. Aeration is provided in the chlorine contact basin to increase the dissolved oxygen in the treated effluent. After the chlorine contact basin, the effluent passes through a flume for flow measurement and then into a small channel leading to Swiftwater Creek.

The docket holder's WWTP discharges to waters classified as SPW and is required to have available emergency power. The existing WWTP has a generator installed capable of providing emergency power. (SPW)

The docket holder's WWTP is not staffed 24 hours per day, however staff is available 24 hours per day at the Pocono Manor Resort. (SPW)

The docket holder has prepared and implemented an emergency management plan (EMP) for the existing WWTP in accordance with Commission requirements. (SPW)

The docket holder's existing wastewater treatment facility does not discharge to Outstanding Basin Waters (OBW), and is not required to have a nonvisible discharge plume. (SPW)

The project facilities are not located in the 100-year floodplain.

Waste sludge will continue to be hauled off-site by a licensed hauler for disposal at a state-approved facility.

c. **Water withdrawals.** The potable water supply in the project service area is provided by wells owned and operated by the docket holder. The groundwater withdrawal from the Delaware River is described in detail in Docket No. D-2006-043-1, which was approved on March 12, 2008. On April 8, 2013, the docket holder filed an application (Docket No. D-2006-043 CP-2) to modify the service area in its existing water withdrawal Docket No. D-2006-043-1 consistent with the amendments to the service area approved in this docket. Docket No. D-2006-043 CP-2 has been reviewed and is also being considered by the Commission at its May 7/8 meetings. BCRA will provide the public water supply (Docket No. D-1991-001 CP-2, which requires the Commission's approval of a docket amendment), and the wastewater treatment under Docket No. D-1986-011 CP-3 (being considered at the May 7/8 meetings) to the Tobyhanna Township developments removed from the docket holder's service area.

d. **NPDES Permit / DRBC Docket.** PADEP issued NPDES Permit No. PA0029149 for the project discharge on December 14, 2011, which includes final effluent limitations for the project discharge to surface waters classified by the PADEP as High Quality – Cold Water Fishery (HQ-CWF). The following average monthly effluent limits are based on an annual average flow of 0.14 mgd, and are among those listed in the NPDES permit that meet or are more stringent than the effluent requirements of the DRBC.

**EFFLUENT TABLE A-1: DRBC Parameters Included in NPDES permit**

<b>OUTFALL 002 (Swiftwater Creek)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
pH (Standard Units)	6 to 9 at all times	As required by NPDES permit
Total Suspended Solids	25 mg/l	As required by NPDES permit
CBOD (5-Day at 20° C)	25 mg/l (85% minimum removal*)	As required by NPDES permit
Ammonia-Nitrogen (5/1 to 10/31) (11/1 to 4/30)	5 mg/l 15 mg/l	As required by NPDES permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg. 2000 colonies per 100 ml as a geo. avg.	As required by NPDES permit
Dissolved Oxygen	6.0 mg/l (minimum at all times)	As required by NPDES permit

\* DRBC Requirement

**EFFLUENT TABLE A-2: DRBC Parameters Not Included in NPDES permit**

<b>OUTFALL 002 (McMichael Creek)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
Total Dissolved Solids *	1,000 mg/l	One Per quarter
Total Phosphorous	Monitor & Report	Monthly
Total Kjeldahl Nitrogen (TKN)	Monitor & Report	Monthly
Nitrite+Nitrate-Nitrogen	Monitor & Report	Monthly

\* See Condition II.r.

e. **Relationship to the Comprehensive Plan.** The existing WWTP was included in the Comprehensive Plan by Docket No. D-2006-026 CP-1 on May 10, 2007 and renewed via Docket No. D-2006-026 CP-2 on May 10, 2012.

## **B. FINDINGS**

The purpose of this docket is to approve a modification of the service area for the existing Pocono Manor WWTP. There are no modifications to the existing WWTP treatment facilities proposed.

The docket holder's WWTP currently receives domestic and commercial wastewater flows from the existing Pocono Manor Village and the Pocono Manor Inn, which are part of the Pocono Manor Resort area, which is located in Pocono and Tobyhanna Townships and Mount Pocono Borough, Monroe County, Pennsylvania.

The Application consists of a request to modify the existing service area of the Pocono Manor WWTP to remove two (2) proposed commercial developments located in Tobyhanna Township: 1) a proposed three-phased waterpark, hotel, and convention center project (Kalahari Resorts project); and 2) a commercial development by Pocono Manor Investors, LP. The modified service area is depicted on the plan entitled "Pocono Manor Sewer Service Area" by Pennoni Associates Inc., dated 3/29/2013.

On April 8, 2013, the docket holder filed an application (Docket No. D-2006-043 CP-2) to modify the service area in its existing water withdrawal Docket No. D-2006-043-1 consistent with the amendments to the service area approved in this docket. Docket No. D-2006-043 CP-2 has been reviewed and is also being considered by the Commission at its May 7/8 meetings.

The service area to be removed will connect to the existing Pocono Township sewer conveyance system, which conveys wastewater to the BCRA WWTP, via existing and proposed infrastructure. BCRA will also provide public water supply to the service area to be removed. BCRA will provide the public water supply (Docket No. D-1991-001 CP-2, which requires the Commission's approval of a docket amendment), and the wastewater treatment under Docket No. D-1986-011 CP-3 (being considered at the May 7/8 meetings) to the Tobyhanna Township developments removed from the docket holder's service area.

In 1992, the DRBC adopted SPW requirements, as part of the DRBC *Water Quality Regulations (WQR)*, designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap has been classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area. (Upper/Middle SPW)

On July 16, 2008, the DRBC approved amendments to its *WQR* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation and clarity on definitions and terms were updated for the entire program. (Upper/Middle SPW)

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the docket holder's service area which is also located within the drainage area of SPW. The service area of the docket holder is located in the drainage area to the SPW. Since this project does not entail additional construction and/or expansion of service area (i.e., there are new or increased non-point source loads associated with this approval), the NPSPCP requirement is applicable at this time. Accordingly, Special Condition II.n. has been included in the Decision section of this docket.

Near the project site, the Swiftwater Creek has an estimated seven-day low flow with a recurrence interval of ten years of 2.65 mgd (4.1 cfs). The ratio of this low flow to the design wastewater discharge (0.14 mgd / 0.22 cfs) from the Pocono Manor WWTP is approximately 19 to 1.

The nearest surface water intake of record for public water supply downstream of the project discharge is the BCRA's intake on the Brodhead Creek, which is located approximately 13.5 miles downstream from the docket holder's WWTP discharge.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The limits in the NPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *WQR*.

**C. DECISION**

I. Effective on the approval date for Docket No. D-2006-026 CP-3 below:

a. The project described in Docket No. D-2006-026 CP-2 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2006-026 CP-3; and

b. Docket No. D-2006-026 CP-2 is terminated and replaced by Docket No. D-2006-026 CP-3.

c. The project and the appurtenant facilities described in the Section A “Physical Features” of this docket shall be continued in the Comprehensive Plan.

II. The project and appurtenant facilities as described in the Section A “Physical features” of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP in its NPDES permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

b. The facility and operational records shall be available at all times for inspection by the DRBC.

c. The facility shall be operated at all times to comply with the requirements of the Commission’s *WQR*.

d. The docket holder shall comply with the requirements contained in Effluent Tables in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results directly to the DRBC Project Review Section. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations.

e. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

f. If at any time the receiving treatment plant proves unable to produce an effluent that is consistent with the requirements of this docket approval, no further connections shall be permitted until the deficiency is remedied.

g. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

h. The discharge of wastewater shall not increase the ambient temperatures of the receiving waters by more than 5°F until stream temperatures reach 50°F, nor by more than 2°F when stream temperatures are between 50°F and 58°F, nor shall such discharge result in stream temperatures exceeding 58°F. (Trout Waters only)

i. The docket holder is permitted to treat and discharge wastewaters as set forth in the Area Served Section of this docket, which incorporates by reference Sections B (Type of Discharge) and D (Service Area) of the docket holder's Application to the extent consistent with all other conditions of this DECISION Section.

j. The docket holder shall make wastewater discharge in such a manner as to avoid injury or damage to fish, wildlife, and/or other aquatic life and shall avoid any injury to public or private property.

k. No sewer service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

l. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

m. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

n. Prior to allowing connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a NPSPCP in accordance with Section 3.10.3.A.2.e, or receive written confirmation from the Executive Director of the DRBC that the new service area is in compliance with a DRBC approved NPSPCP.

o. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

p. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

q. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

r. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

s. Nothing in this docket constitutes a defense to any penalty action for past conduct of the docket holder or ongoing activity not authorized by this approval. In particular, renewal of this docket does not resolve violations – whether in the past or continuing – of provisions of the Delaware River Basin Compact (“Compact”) or any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the Compact. The Commission reserves its right to take appropriate enforcement action against the docket holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the Compact, for any and all such prior or continuing violations.

t. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.

**BY THE COMMISSION**

**DATE APPROVED: May 8, 2013**

**EXPIRATION DATE: December 31, 2016**